

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

JON MUNFORD,)	4:10CV3190
)	
Plaintiff,)	
)	
vs.)	MEMORANDUM AND ORDER
)	
MICHAEL J. ASTRUE,)	
Commissioner of Social Security,)	
)	
Defendant.)	

This matter is before the Court on the Defendant's motion to reverse and remand (Filing No. 17). The Plaintiff has no objection to the remand (Filing No. 19).

The Commissioner requests an order and final judgment reversing the decision of the Appeals Council ("Council")¹ and remanding this case to the Council under sentence four of Section 205(g), 42 U.S.C. § 405(g). Counsel for the Commissioner argues that the remand is appropriate under the recent decision in *Petersen v. Astrue*, 633 F.3d 633 (8th Cir. 2011). On remand, the Council should issue a fully favorable decision concluding that the Windfall Elimination Provision does not apply to the claim of the Plaintiff, Jon Munford.

The Court acknowledges that the accompanying final judgment begins the appeal period that determines the 30-day period during which a timely application for attorney fees may be submitted under the Equal Access to Justice Act.

IT IS ORDERED:

1. The Defendant's motion to remand (Filing No. 17) is granted;
2. The decision of the Appeals Council is reversed;

¹The Council reversed the ALJ's decision.

3. This action is remanded to the Commissioner under sentence four of 42 U.S.C. § 405(g) for further proceedings consistent with this Memorandum and Order; and
4. Judgment will be entered in a separate document.

DATED this 2nd day of June, 2011.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge